

Legal and Regulatory Subgroup—Meeting One Minutes

August 17, 2020

9:00 AM

Virtual Meeting via WebEx

Meeting Video: <https://www.youtube.com/watch?v=B1OI5Epxoco>

Meeting Attendees:

Secretary Brian Moran

Deputy Secretary Brad Copenhaver, on behalf of Secretary Bettina Ring

Deputy Secretary Heidi Hertz (*taking notes*)

Deputy Secretary Nicky Zamostny

Commissioner Jewel Bronaugh (VDACS)

Nate Green (Virginia Association of Commonwealth's Attorneys)

Kristen Howard (State Crime Commission)

Holli Wood (OAG), on behalf of Mark Herring

Deputy Commissioner Charles Green (VDACS)

Ngiste Abebe (Columbia Care)

David Brown (Department of Health Professions), on behalf of Caroline Juran

Michael Carter (VSU Small Farm Outreach Program and farmer)

Colby Ferguson (DMV), on behalf of Commissioner Richard Holcomb

Linda Jackson (Department of Forensic Science)

Richard Boyd (Virginia State Police)

Joe Mayer (Tax Department), on behalf of Commissioner Craig Burns

Dr. Sam Caughron (Charlottesville Wellness Center Family Practice)

Jenn Michelle Pedini (Virginia NORML)

Deputy Secretary Brad Copenhaver began the meeting at 9:00 AM

Select Subgroup Chair and Vice Chair: Jenn Michelle Pedini (Co-Chair) & Nate Green (Co-Chair)

Roll Call: 12 yes, 0 no

- Unanimous in favor for Co-Chairs

Group Discussion of Potential Policy Questions:

Deputy Secretary Copenhaver reminded the group of its charge: What are the laws and regulations here in VA that would have to change if the General Assembly moves to legalize adult use of Marijuana?

The following is a summary of the discussion during the meeting regarding potential topics and policy questions that the members brought up.

- THC levels- Will we make efforts to control THC levels in marijuana? Should this be regulated? Consider reflecting on guidelines for medical cannabis program.

- Identify possession limits- Considering types: flower, concentrate, edible, etc. Serving sizes specifically in edibles as it pertains and include limits.
- THC Concentration- Not generally controlling levels in the plant itself, during growing- many variables. Important to consider serving sizes and THC concentration when looking at edibles taking into account consumer safety and address overconsumption issues.
- Packaging and labeling is important- Consider vast array of consumers using the products as well as product labeling and packaging. Consider low-dose consumer experiences/preferences for adult-use markets.
- Social-equity business models- both regulator and structural issues with licensing. Important to have opportunities that are lower capital intensive. Review Illinois model. Consider: vertical integration, guidelines for medical cannabis program, keep licensing fees low, technical assistance being provided
- Licensing models- controlling supply from “outside”, keep product local, seed delivery/interstate, hemp licensing as step to growing, timing of sell related to new policy, consider state sponsored markets to get products to market at a good price, balance small farmers with larger (previous tobacco) farmers. Review how records are impacting employment in the cannabis industry.
- Additional product categories- flower, vapes, culinary products (would there be additional regulations for these products? ABC, VDH, etc?)
- Potency limits- edibles where big concern is, look into potency limits for recreational use other states have used. Review research on toxicity, highway safety, side effects (ex. National Highway Safety).
- Licensing for grow-your-own- personal cultivation of interest and should consider what other states have put into place.
- Seed to sale tracking- system that allows for oversight (ex. Tax), review medical cannabis regulations
- Other considerations from the medical cannabis program including: Security requirements and Consumer safety
- Testing considerations- Unable to tell plant materials that are sold legally vs illegally.
- Toxicologist- agree that there is no level they will testify to determine impairment
- Infrastructure for enforcement- crime implications. Ex. Transportation, cash business (specifically where profits are held), fire, growing for personal use, impact to banks.
- Banking- due to lack of federal reform, banking considerations and solutions to depositing cash and participate in the formal banking economy. This may cause issues for some growers. Current efforts at federal level to address banking challenges.
- Federal tax rate- Review other states’ tax strategies.
- Advertising and marketing- CBD compared to medical marijuana guidelines/regulations. Consider appropriate rules/regulations around advertising (ex. Not advertising to children, avoiding false health claims).
- Ensure that laws going forward are equitable to all.
- Location of where products are sold- Limitations already for medical cannabis providers. Retailers able to communicate where located, when open, etc. Consider location in relationship to other areas (ex. Schools, childcare) and implications of moving away from vertical integration and impacts on location of product for retail.

- Locality engagement- opt-in, opt-out and implication for sales tax revenue, growers, local government authority, social equity licensing. Review strategies that achieve balance.
- Agency regulatory process- APA or General Assembly direction. Explore what a regulatory body for cannabis looks like. Consider how other states have regulated: VA currently fragmented with BOP regulating medical cannabis program, VDACS oversees industrial hemp, ABC regulating alcohol.
- Implications for growers- Cross pollination of hemp field and marijuana field, various strains of marijuana, issues with honey, environmental impact. Review other states regulations. Indoor cultivation considerations specifically for small growers and impact on their ability to get into the market.
- Tiered licensing structure- creating more economic opportunity. Industrial hemp different processor license. Pathway for existing regulators- benefits for many. Innovative business ideas and overlap with other licensing needs (ex. Culinary uses interacting ABC, VDH, others?)
- Market dynamics- how involved does the state want to be? Ex. Managing supply and demand for product. Recognize economic opportunity and implications for oversaturation. Review other state's plans (ex. Illinois, Oregon).
- Highway safety- DMV concern around driving under the influence, no "defined levels". Can stay within the DUI guidelines.
- Health education- Consumers need to be educated on driving impairment and ways to prevent. Review Massachusetts campaign (educational, youth prevention message).
- Employment- drug testing/screening for employment (also in relationship to medical cannabis program) and best practices for testing. Review other techniques of testing for impairment. Consider CDL programs, federal government employee and contractor roles.
- Employment opportunities for youth- youth on farm as interns, employees and their involvement in the crop. Review alcohol beverage industry models, tobacco industry.
- Definitions- defining "adult use". National standard is 21 years old.
- Address young population-use- Consider ages 18-21 use and distribution.
- Enforcement of regulations- who is regulating underage use, distribution, on-farm work? Budget implications for agencies tasked with enforcement.
- Housing protections- interactions between substance use and evictions.
- Parental rights- include in the discussion as well

Group Discussion of Stakeholder and Subject Matter Expert Engagement:

- Engagement with the public: listening sessions
- Engagement with subject matter experts:
 - American College of Environmental and Occupational Management- resource to talk about legal and medical ramifications
 - Massachusetts Commission
 - Workgroup members invited to share recommendations with Brad
- Each member should start to research and compile information to be shared with Brad.

Finalize Work Plan and Set Next Meeting Date:

- Proposed next workgroup meeting date: early afternoon? Sept 8, 9th? Be on the lookout for an email from Brad with follow up and further details.

Public Comment:

- **Jasmine Washington-** No Comment
- **Anne Leigh Kerr (Scotts Miracle Grow Company/ Hawthorne Gardening) -** Company has been involved in the 10 states that have legalized adult use. The company would like to help with this moving forward.
- **Michael (Disabled USA Air force Vet) (Previous Director of Virginia Normal) (Runs Veterans for Medical Cannabis Access) –** The organization would like to remain engaged in this process and provide input on furthering the legalization of adult marijuana use.
- **Chris Leyen (Senator Ebbin's Office) –** What is the best way to share constituent information on this at the workgroup level? Would like to be looped in about these meetings.

The meeting was adjourned at 10:57 AM.